

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri Bonku Prabhakara Rao, S/o Swamy, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) against the Proceedings, in Rc.No.C5/M/254/2012, dt:21.08.2018 of the District Collector, erstwhile East Godavari – Appeal Petition remanded for fresh enquiry – Orders - Issued.

SOCIAL WELFARE (TW.CV) DEPARTMENT

G.O.Ms.No.03

Dated: 10.01.2024
Read the following:-

1. Proceedings of the District Collector, East Godavari, R.Dis.C5/M/254/2012, dated 21.08.2018.
2. Appeal Petition filed by Sri Bonku Prabhakara Rao, through his Counsels, before the Hon'ble M(SWE&TWE), C.No.1653/SW&TW/2018, dated 18.09.20018.
3. Govt. Memo. No.11021/86/CV.1/2018, dt: 26.09.2018.
4. From the District Collector, East Godavari, Lr.No.Rc.C5/M/254/2012, dt: 20.11.2018.
5. Govt. Memo. No.11021/86/CV.1/2018, dt: 09.10.2019, 13.11.2019, 04.03.2022 & 26.06.2023.
6. Written arguments submitted by the appellant through his counsel on 26.08.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, erstwhile East Godavari had issued orders cancelling the "ST Valmiki" community certificate of Sri Bonku Prabhakara Rao, S/o Swamy, obtained from the then Tahsildar, Gangavaram in Caste Certificate No.211774, dt.12.08.1999.

2. Sri Bonku Prabhakara Rao, S/o Swamy has filed Appeal Petition before the Government against the Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the same and granted stay on the proceedings of the District Collector, East Godavari as prayed by the Appellant, and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector vide Government Memo 3rd read above.

3. In the letter 4th read above, the District Collector, East Godavari has furnished para-wise remarks along with connected records on the Appeal Petition filed by Sri Bonku Prabhakara Rao, S/o Swamy.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 15.07.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ Para-wise remarks submitted by the District Collector, erstwhile East Godavari and proceedings of the District Collector, erstwhile East Godavari, dated 21.08.2018/ written arguments submitted by the petitioner through his council, the Appellate authority has observed that;

- I. This Appeal Petition is filed by Sri Bonku Prabhakara rao S/o Swamy, Nellipudi Village of Gangavaram Mandal under Section 7(2) of The AP SC, ST& BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997(Act 16 of 1993) against the impugned Proceedings issued in Ref. No. C5/M/254/2012 dated on 21.08.2018 on the file of the District Collector, East Godavari District, Kakinada, cancelling the ST-Valmiki caste certificate issued to him and his family members.
- II. The matter came for hearing finally before the Appellate Authority on 15-07-2023. The Appellant was present and the counsel for the Appellant argued orally and requested time to file written arguments. The time was granted to till 07-08-2023 for filing of written statement. The Deputy Tahsildar, represented the ITDA, Rampachodavaram was also present. The Appellant filed written submission as directed along with certain documents to substantiate his claim as ST-Valmiki. Hence the following order is made on perusal of the material documents/records available.

- III. The main contention of the Appellant is that the District Collector made remarks reiterating the observations of the District Level Scrutiny Committee without applying judicial mind and failed to appreciate the permanent caste certificate issued by the then Mandal Revenue Officer in his favour in 1999 while observing that the certificates are not prior to 1956 and that he is having a land dispute with the complainant Kokkere Veera Raghavamma, as such the allegations made by her against him are required to be scrutinized cautiously and that the District collector did not make any observations whether the Certificates issued in their favour were fake or Genuine and the permanent certificate obtained by him and relatives were regarded as genuine by the Tahildar, Agency Gangavaram under RTI and the Collector observed on the Death extract (1937) of Sri Bonku Venkanna and his Birth extract(1920) produced by him as "it is said to be Death extract of his father's brother but could not produce any evidence for establishing relation with Bonku Venkannau without any enquiry and in fact they are blood relatives to him and the documents filed are prior to the independence and have more probative value and the caste status of Bonku Dillip Kumar S/o Bonku Bhushanam were declared as ST Valmiki vide G.O.Ms.No.19, Dt.08.02.2019 and his another relative of him by name Bonku Prasanna Prema Valli who obtained Caste Certificate as ST was considered by the District Collector, Alluri Seetharama Raju District Vide Gazette No.515 of Paderu, Dt. 27.06.2023 and also filed the Genealogy filled by the appellant and also affidavits of a few individuals and that the District Level Scrutiny Committee(DLSC) wantonly avoided to record the statement of the relatives of the paternal side intentionally recorded the statement of the brother of appellants mother who belongs to SC community with whom the marriage of appellant's father is performed which is the inter-caste marriage and the District collector did not check the veracity of the reports of RDO, Rampachodavaram and the MRO, Gangavaram and he himself contested in elections in the ST reserved posts such as Sarpanch Nellilpudi and Assembly of Yellavaram Constituency during 1989, Rampachodavaram Constituency in 1994 and the Parliament Constituency of Bhadrachalam in 1991 and that the social affinity test is not a conclusive proof to decide the community status and the appellant also and other grounds, and the Appellant finally requested to set aside the order passed by the Collector dated 21-08-2018 and declare the appellant caste as ST Valmiki for the ends of Justice.
- IV. The impugned order was passed by the District Collector based on the enquiry report of the DLSC and his observations on the claim of the Appellant here in not belonging to ST- Valmiki. The enquiry was held on the basis of the documents produced by the Appellant Permanent Caste Certificate issued in his favour in the year 1999, birth and death extract of one Sri Bonku Venkanna, an order passed in LTRP No.64/84, a copy of the register and birth extract of one Sri Bonku Bhushanam and other official enquiry reports.
- V. The impugned order passed by the District Collector shows that "the Collector posted the case on 13.08.2018 at 11.00 AM for personal hearing. Notice was served on the individual directing him to attend before the Collector along with recorded evidences if any in support of his claim as ST-Valmiki. The individual attended the enquiry before the Collector and requested for time to produce records and documents in support of his caste claim as ST-Valmiki, The Collector considered his request and given one-week time to produce the required documents. But the individual has not submitted any evidences in support of his claim till date". Therefore the District Collector passed an impugned order basing on the records available.
- VI. However during the enquiry before this authority, the Appellant filed a new material of evidence including, the information furnished by the Tahasildar, Agency Gangavaram under RTI Act, 2) Affidavit of son of Bonku Venkanna by name Dasu, 3) Affidavit of son of Bonku Bhushanam by name Dilip Kumar 4) The G.O.Ms.No.19/2019, Dt. 08.02.2019, 5) The Gazette No.515, Paderu Dt. 27.06.2023, 6) The voter Id of the appellant and the voter list, 7)The death certificate of Bonku Venkanna, 8) The patta which stands in the name of Bonku Chellappa, 9)Genealogy and also other community status certificates issued to individuals whose surname is Bonku certified as ST-Valmiki and also in support of his case a decision rendered in Mah. Adiwasi Thakur Jawati Swarakshan Samiti Vs the State of Maharashtra and others by the Apex Court dated 24-03-2023.
- VII. The documents filed before this authority were not subjected to scrutiny either before the DLSC constituted or the enquiry before the District Collector under the provisions of the A.P. (SCs, STs and BCs) regulation of issue of community nativity and date of birth certificate Act 1993 and the rules - 1997 issued in G.O.Ms.No.58, SW (J) Department, dt.12.05.1997 made there under.

VIII. Hence, the Appellant here in is at liberty to place all the relevant documents for the purpose of establishing his bona fides of the fact that he is a notified Scheduled Tribe-Valmiki.

5. Government after careful examination of the appeal petition and in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (SCs, STs and BCs) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), decided that the Appeal Petition filed by Sri Bonku Prabhakara rao S/o Swamy is hereby remanded to the District Collector, Alluri Sitarama Raju District for an enquiry afresh and pass an appropriate order or orders after giving reasonable opportunity to all the parties concerned, within three months from the date of the receipt of this order, Meanwhile the status quo shall be maintained. Hence, the proceedings of the Collector & District Magistrate, East Godavari District, Kakinada issued vide Ref.No.R.Dis.C5(M)254/2012, dated 21-08-2018 cancelling the community certificate issued to the Appellant and his relatives as ST-Valmiki is hereby set aside. As a sequel interim orders if any passed in the matter are hereby vacated. Appeal is disposed of accordingly.

6. The Collector & District Magistrate, erstwhile East Godavari now Alluri Sitarama Raju District is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (Rc.C5/M/254/2012, containing pages 1-476) received from the Collector & District Magistrate, erstwhile East Godavari now Alluri Sitarama Raju District are returned herewith in original to the Collector & District Magistrate, erstwhile East Godavari now Alluri Sitarama Raju District and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Collector & District Magistrate, Alluri Sitarama Raju District.(we)
(With original Records)(**BY RPAD**)

The Collector & District Magistrate, East Godavari for information.

Sri Bonku Prabhakara Rao,
S/o Swamy @ Musali, Nellipudi,
Agency Gangavaram Mandal,
East Godavari District.-533284(**By RP**)

Sri Koduri Anjaneyulu & Associate Advocates,
Gandhipuram-3, Rajamahendravaram,
East Godavari District.

Copy to:

The Revenue Divisional Officer, Rampachodavaram.

The OSD to Hon'ble Deputy CM(TW)
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //


SECTION OFFICER

